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3 **UNITED STATES DISTRICT COURT**
4 **DISTRICT OF NEVADA**
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8
9 UNITED STATES OF AMERICA,

10
11 Plaintiff,

12 v.

13 REGGIE PRATT, et al,
14 Defendants.

Case Number: 2:16-cr-0052-GMN-PAL-6

15
16 **ORDER ON DEFENDANT'S MOTION FOR A HEARING TO DETERMINE**
17 **COMPETENCY**

18 This matter having come on before the Honorable Magistrate Judge Carl W.Hoffman, on
19 the 16th day of May, 2017, at 2:30 p.m., the Defendant, Dominique Grace, being present with his
20 appointed counsel, Randall J. Roske, and the Assistant United States Attorney, Phillip Smith,
21 also being present on for hearing of Defendant's Motion for a hearing on the issue of his
22 competency to stand trial (Docket # 148, Sealed); and the Motion, not being opposed by the
23 United States, and for good cause appearing, the Court makes the following orders:

24 1. That the Defendant's Motion is timely filed under Title 18 United States Code §
25 4241(a), which provides that the instant issue can be raised any time after the commencement of
26 a prosecution.

27 2. That good cause exists to have the Defendant Dominique Grace be ordered to undergo
28 a psychiatric or psychological examination by a licensed or certified psychiatrist or psychologist,

1 and at the direction of the United States Attorney General or his authorized designee, which
2 provides that Mr. Grace can be “committed” to be placed in a suitable facility for further
3 evaluation for a reasonable period of time, but not to exceed 45 days, pursuant to Title 18 U.S.C.
4 § 4247 (b).

5 3. That an additional fifteen day extension of time under Title 18 U. S. C. § 4247 (b),
6 may be granted upon a showing of good cause that additional time is necessary to observe and
7 evaluate the defendant.

8 4. That the designated mental health professional shall prepare a psychiatric or
9 psychological report, to be filed with this Court, with copies to be served upon counsel for the
10 defendant and the attorney for the Government. This report shall address the following statutory
11 and case-law factors:

12 Title 18 U.S.C. § 4247 (c) :

13 (a) the person’s history and present symptoms;

14 (b) a description of the psychiatric, psychological, and medical tests that were employed,
15 and their results;

16 (c) the examiner’s findings; and

17 (d) the examiner’s opinions as to diagnosis, prognosis, and—

18 (i) because this examination is ordered under Title 18 U.S.C. § 4241(a), determine
19 whether Mr. Grace is suffering from a mental disease or defect rendering him mentally in
20 competent to the extent that he is unable to understand the nature and consequences of the
21 proceedings against him or to assist properly in his defense; and

22 (ii) further, the “**Dusky**” standard applies to this examination and requires an evaluation
23 whether the defendant is functionally able to assist his counsel in his defense. In **Dusky v.**
24 **United States, 362 U. S. 402, 80 S. Ct. 788, 4 L. Ed 2d 835 (1960)**, it was noted that a
25 defendant is not mentally competent to stand trial if he suffers from a mental disease or defect
26 which impairs his (1) “sufficient present ability to consult with his lawyer with a reasonable
27 degree of rational understanding,” or (2) leaves him lacking a “rational as well as factual
28 understanding of both the charges against him and the nature of the judicial proceedings.”

5. That counsel for the Defendant, shall furnish the designated mental health professional with copies of the Defendant's Motion for Hearing on the Issue of Competency (Sealed Docket Number 148) with exhibits, the Indictment, and copies of the discovery, to assist in the preparation of the examination and report for the Court.

6. That the matter is set for a status check before this Court, on August 15, 2017 at the hour of 1:30 P.M.

IT IS SO ORDERED.

23rd
Dated this ____ day of May, 2017

Hon. Carl W. Hoffman
Magistrate Judge

Submitted by:

/s/Randall J. Roske,
Randall J. Roske, Esq.
Counsel for Defendant
Dominique Grace

Approved as to form and content:

/s/Phillip N. Smith, Jr.
Phillip N. Smith, Jr., AUSA
Counsel for Plaintiff
United States of America